

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)
)
Plaintiff,) C.A. No.: 04-1350 (GMS)
)
v.)
)
SYLVIA FOSTER, KATHYRN)
SHENEMAN, MICHAEL TALMO,)
DIANE STACHOWSKI, HELEN)
HANLON, MARGERET WILSON,)
MALE NURSE, DONNA LAWRENCE,)
GLORIA BANKS, FLORENCE SCOTT)
COBB, LANCE SAPERS, DAVE)
MOFFITT, R. GRAY, C. OATS, ROSE)
ARES, PAT RILEY, DR. OVRESHI,)
CURTIS CORNISH, KAREN)
CHAMBERLIN, SEGAL J., TANYA)
WILSON, J. CONYER, MR. JOHNSON,)
JOHN JOE,)
)
Defendants.)

DEFENDANT DR. SYLVIA FOSTER'S MOTION FOR PROTECTIVE ORDER

COME NOW, Defendant, Dr. Sylvia Foster, by the undersigned and hereby moves this Honorable Court for a protective order pursuant to Federal Rule of Civil Procedure 26(c). In support of this Motion, Defendant offers the following:

1. Plaintiff, Jimmie Lewis, is an inmate in the custody of the Department of Correction ("DOC") presently incarcerated at the Delaware Correctional Center ("DCC") in Smyrna, Delaware.

2. On August 9, 2006, Lewis filed a Motion to Depose Defendants and Witnesses. In this motion, Lewis seeks to depose the five named Defendants, as well as 14 additional witnesses, on October 11, 2006.

3. Federal Rule of Civil Procedure 26(b)(2)(i) places limits on "discovery sought that is obtainable from some other source that is more convenient". The rule goes on to provide that when "the burden or expense of proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues", the Court may further limit discovery requests. Federal Rules of Civil Procedure 26(b)(2)(iii).

4. Defendant, Dr. Sylvia Foster, will respond to any written requests for admission or written interrogatories submitted by Lewis. Given Lewis' *in forma pauperis* status, it is clear that he would not be able to hire a court reporter for the depositions that he desires. Lewis can obtain the same information that he seeks from the Defendants through interrogatories and request for admissions without the costs associated with depositions and without the transportation and security issues raised by his request to travel to the federal courthouse.

5. Defendant has already provided a Response to Lewis' Motion for Discovery", as well as substantial document production. Lewis' subpoena requests is not necessary to his ability to conduct discovery against Dr. Foster to proceed with his excessive force claim.

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire

Cynthia G. Beam, Esquire
Delaware State Bar I.D. No. 2565
1001 Jefferson Plaza, Suite 202
Wilmington, DE 19801
(302) 652-3611
Attorney for Defendant Dr. Sylvia Foster

Dated: September 26, 2006

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FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)	
Plaintiff,)	
v.)	
SYLVIA FOSTER, KATHYRN)	C.A. No.: 04-1350 (GMS)
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JOHN JOE,)	
)	
Defendants.)	

ORDER

WHEREAS, Defendant, Dr. Sylvia Foster, having requested a Motion for Protective Order pursuant to Federal Rule of Civil Procedure 16; and

WHEREAS, there being good cause shown for the granting of such motion;

IT IS HEREBY ORDERED this _____ day of _____, 2006, that Defendant Dr. Sylvia Foster's Motion for Protective Order is granted. Defendant is not required to appear at the District Court on October 11, 2006 as directed by Plaintiff. Defendant shall respond to interrogatories and request for admission properly filed by Plaintiff within the discovery period previously set forth by this Court's scheduling order.

Gregory M. Sleet
United States District Judge

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)	
Defendants.)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 26th day of September, 2006 that a true and correct copy of Defendant Dr. Sylvia Foster's Motion for Protective Order has been served electronically and/or by first class mail, postage prepaid, to the following:

Jimmie Lewis
SBI#506622
1181 Paddock Road
Delaware Correctional Center
Smyrna, DE 19977

Gregory E. Smith
Deputy Attorney General
820 North French Street, 7th Floor
Carvel State Office Building
Wilmington, DE 19801

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire _____

Cynthia G. Beam, Esquire
Delaware State Bar I.D. No. 2565
1001 Jefferson Plaza, Suite 202
Wilmington, DE 19801
(302) 652-3611
Attorney for Defendant Dr. Sylvia Foster

Dated: September 26, 2006